

## Securities and Exchange Commission

## § 202.1

(c) *Administrator to post bond.* If the administrator is not a Commission employee, the administrator shall be required to obtain a bond in the manner prescribed in 11 U.S.C. 322, in an amount to be approved by the Commission. The cost of the bond may be paid for as a cost of administration. The Commission may waive posting of a bond for good cause shown.

(d) *Administrator's fees.* If the administrator is a Commission employee, no fee shall be paid to the administrator for his or her services. If the administrator is not a Commission employee, the administrator may file an application for fees for completed services, and upon approval by the Commission or a hearing officer, may be paid a reasonable fee for those services. Any objections thereto shall be filed within 21 days of service of the application on the parties.

(e) *Source of funds.* Unless otherwise ordered, fees and other expenses of administering the plan shall be paid first from the interest earned on the funds, and if the interest is not sufficient, then from the corpus.

(f) *Accountings.* During the first 10 days of each calendar quarter, or as otherwise directed by the Commission or the hearing officer, the administrator shall file an accounting of all monies earned or received and all monies spent in connection with the administration of the plan of disgorgement. A final accounting shall be submitted for approval of the Commission or hearing officer prior to discharge of the administrator and cancellation of the administrator's bond, if any.

(g) *Amendment.* A plan may be amended upon motion by any party or by the plan administrator or upon the Commission's or the hearing officer's own motion.

### § 201.1106 Right to challenge.

Other than in connection with the opportunity to submit comments as provided in § 201.1103, no person shall be granted leave to intervene or to participate or otherwise to appear in any agency proceeding or otherwise to challenge an order of disgorgement or creation of a Fair Fund; or an order approving, with modifications, or disapproving a plan of disgorgement

or a Fair Fund plan; or any determination relating to a plan based solely upon that person's eligibility or potential eligibility to participate in a fund or based upon any private right of action such person may have against any person who is also a respondent in the proceeding.

## PART 202—INFORMAL AND OTHER PROCEDURES

Sec.

- 202.1 General.
- 202.2 Pre-filing assistance and interpretative advice.
- 202.3 Processing of filings.
- 202.3a Instructions for filing fees.
- 202.4 Facilitating administrative hearings.
- 202.5 Enforcement activities.
- 202.6 Adoption, revision and rescission of rules and regulations of general application.
- 202.7 Submittals.
- 202.8 Small entity compliance guides.
- 202.9 Small entity enforcement penalty reduction policy.
- 202.10 Policy statement of the Securities and Exchange Commission concerning subpoenas to members of the news media.
- 202.12 Policy statement concerning cooperation by individuals in its investigations and related enforcement actions.

### Subpart A—Public Company Accounting Oversight Board (Regulation P)

- 202.140 Interim Commission review of PCAOB inspection reports.
- 202.170 Initiation of disapproval proceedings for PCAOB proposed rules.
- 202.190 Public Company Accounting Oversight Board budget approval process.

AUTHORITY: 15 U.S.C. 77s, 77t, 77sss, 77uuu, 78d-1, 78u, 78w, 78ll(d), 80a-37, 80a-41, 80b-9, 80b-11, 7201 *et seq.*, unless otherwise noted.

Section 202.9 is also issued under sec. 223, 110 Stat. 859 (Mar. 29, 1996).

SOURCE: 25 FR 6736, July 15, 1960, unless otherwise noted.

### § 202.1 General.

(a) The statutes administered by the Commission provide generally (1) for the filing with it of certain statements, such as registration statements, periodic and ownership reports, and proxy solicitation material, and for the filing of certain plans of reorganization, applications and declarations seeking

## § 202.2

## 17 CFR Ch. II (4–1–16 Edition)

Commission approvals; (2) for Commission determination through formal procedures of matters initiated by private parties or by the Commission; (3) for the investigation and examination of persons and records where necessary to carry out the purposes of the statutes and for enforcement of statutory provisions; and (4) for the adoption of rules and regulations where necessary to effectuate the purposes of the statutes.

(b) In addition to the Commission's rules of practice set forth in part 201 of this chapter, the Commission has promulgated rules and regulations pursuant to the several statutes it administers (parts 230, 240, 260, 270 and 275 of this chapter). These parts contain substantive provisions and include as well numerous provisions detailing the procedure for meeting specific standards embodied in the statutes. The Commission's rules and regulations under each of the statutes are available in pamphlet form upon request to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(c) The statutes and the published rules, regulations and forms thereunder prescribe the course and method of formal procedures to be followed in Commission proceedings. These are supplemented where feasible by certain informal procedures designed to aid the public and facilitate the execution of the Commission's functions. There follows a brief description of procedures generally followed by the Commission which have not been formalized in rules.

(d) The informal procedures of the Commission are largely concerned with the rendering of advice and assistance by the Commission's staff to members of the public dealing with the Commission. While opinions expressed by members of the staff do not constitute an official expression of the Commission's views, they represent the views of persons who are continuously working with the provisions of the statute involved. And any statement by the director, associate director, assistant director, chief accountant, chief counsel, or chief financial analyst of a division can be relied upon as representing the views of that division. In certain instances an informal statement of the

views of the Commission may be obtained. The staff, upon request or on its own motion, will generally present questions to the Commission which involve matters of substantial importance and where the issues are novel or highly complex, although the granting of a request for an informal statement by the Commission is entirely within its discretion.

[25 FR 6736, July 15, 1960, as amended at 76 FR 71875, Nov. 21, 2011]

### § 202.2 Pre-filing assistance and interpretative advice.

The staff of the Commission renders interpretative and advisory assistance to members of the general public, prospective registrants, applicants and declarants. For example, persons having a question regarding the availability of an exemption may secure informal administrative interpretations of the applicable statute or rule as they relate to the particular facts and circumstances presented. Similarly, persons contemplating filings with the Commission may receive advice of a general nature as to the preparation thereof, including information as to the forms to be used and the scope of the items contained in the forms. Inquiries may be directed to an appropriate officer of the Commission's staff. In addition, informal discussions with members of the staff may be arranged whenever feasible, at the Commission's central office or, except in connection with certain matters under the Investment Company Act of 1940, at one of its regional offices.

[25 FR 6736, July 15, 1960, as amended at 59 FR 5945, Feb. 9, 1994; 73 FR 32227, June 5, 2008; 76 FR 71875, Nov. 21, 2011]

### § 202.3 Processing of filings.

(a) Registration statements, proxy statements, letters of notification, periodic reports, applications for qualification of indentures, and similar documents filed with the Commission under the Securities Act of 1933 and the Trust Indenture Act of 1939, and certain filings under the Securities Exchange Act of 1934 are routed to the Division of Corporation Finance, which passes initially on the adequacy of disclosure and recommends the initial action to be taken. If the filing appears